

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES**

JANUARY 23, 2002

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT

Ron Alvarado, President
William Elkins, Vice President
Florence Bos, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Department of Personnel Administration/California State Employees Association bargaining agreement was heard in the Assembly Policy Committee. The Memorandum of Understanding contains provisions for "Post and Promote" based on seniority that are opposed by the State Personnel Board.

** The Summary Minutes for the State Personnel Board can be obtained at the following Internet address:
<http://www.spb.ca.gov/servicesrd.cfm>

- B. The State Personnel Board has issued subpoenas to the Department of General Services and the State Compensation Insurance Fund to obtain access to their discrimination complaint files to complete the legislatively mandated study of the discrimination complaint system.
- C. The State Personnel Board will partner with Mothers in Action and Senator Murray to conduct a job fair in Southern California.
- D. The Department of Social Services continues to make substantive progress on the their task force studying and making recommendations to address staffing shortages in county welfare programs.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on the following:

Litigation

- A. EEOC v. Wafflehouse - United States Supreme Court has held that an agreement between an employer and an employee to arbitrate employment-related claims does not bar the EEOC from pursuing victim-specific judicial relief such as backpay, reinstatement and damages in an Americans With Disabilities Act enforcement actions.

Other

- A. Select Advisory Panel of Policy PRIDE and Appeals - The next meeting is scheduled for January 29, 2002.
- B. State Employee Mediation Project - Volunteer training conducted this month received outstanding evaluations.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. Assemblymember Rod Wright is going to carry the State Personnel Board's proposed legislation "Extension of Probationary Period for Reasonable Accommodation."
- B. The other three State Personnel Board proposals are with authors who will decide if they intend to carry the legislation for the Board.
- C. State Personnel Board staff has been working with Assemblymember Horton's staff on the issue of dismissal cases and the process for dismissed employees to be able to resume taking examinations.

BOARD ACTIONS

6. STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 8, 2002

ACTION: Adopted on January 23, 2002.

VOTE: Alvarado, Elkins, Bos - Aye.

7. ADMINISTRATIVE LAW JUDGE CASES

On January 23, 2002, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

COURT REMAND

BETTY JO SMITH, M.D., CASE NO. 98-0119

Appeal from dismissal

Physician and Surgeon

Department of Developmental Services

ACTION: Appellant's request to have her case reinstated to the Board's active hearing calendar is denied. No further action will be taken by the Board concerning this case until such time as the appeal from judgment granting petition for writ of mandate in Sacramento County Superior Court Case No. 99CS02276, has been resolved.

CHIEF COUNSEL RESOLUTION

MICHAEL WELINS, CASE NO. 01-4094

Appeal from dismissal from the position of Caltrans
Structural Steel Painter
Department of Transportation
ACTION: Stipulation rejected

PROPOSED DECISIONS

JOHN LOPEZ, JR., CASE NO. 01-2668E
Appeal From Discrimination
Motor Vehicle Technician
Department of Motor Vehicles
ACTION: Discrimination Complaint dismissed

CHARLES WRIGHT, CASE NO. 01-1789
Appeal From Dismissal
Correctional Officer
Correctional Institution at Tehachapi
Department of Corrections
ACTION: Dismissal sustained

CHRISTOPHER J. RETTIG, CASE NO. 01-2258
Appeal From Dismissal
Officer
Department of California Highway Patrol
ACTION: Dismissal sustained

LARRY BUTLER, CASE NO. 01-1278
Appeal From Request for Reinstatement After
Automatic Resignation (AWOL)
Supervising Electrician
Los Angeles - California State University
California State University
ACTION: Request for reinstatement after automatic
resignation as AWOL denied

DEBRA CANDLER, CASE NO. 01-0254
Appeal for Ten Percent Reduction
In Salary for Six Months
Parole Agent I
Department of Corrections

ACTION: Ten percent reduction in salary for six months modified to ten percent reduction in salary for three months

LUIS CORONA, CASE NO. 01-1924
From Official Reprimand
Correctional Officer
Chino-California Institution for Men
Department of Corrections
ACTION: Official reprimand sustained

SYLVIA RAMIREZ, CASE NO. 01-1958
Appeal From Five Day Suspension
Eligibility Worker II
Calaveras Works and Human Services Agency
Calaveras County
ACTION: Five day suspension sustained

DANNY F. COOPER, CASE NO. 01-1557
Appeal From Ten Percent Reduction In Salary
For Twelve Pay Periods
Youth Correctional Counselor
Department of the Youth Authority
ACTION: Ten percent reduction in salary for twelve pay periods modified to a five percent reduction in salary for nine pay periods.

CLARENCE WORMLEY, CASE NO. 01-0983
Appeal From 30 Calendar Days Suspension
Parole Agent I
San Luis Obispo - State Prison
Department of Corrections
ACTION: 30 days suspension sustained

PETITIONS FOR REHEARING

ANDREW D. FLORES, Sr., CASE NO. 01-1022
Appeal from suspension for thirty workdays
Correctional Officer
Richard Donovan Correctional Facility
Department of Corrections
ACTION: Petition for rehearing filed by appellant denied

VIRGINIA PARKER, CASE NO. 00-3983

Appeal from ten percent reduction
in salary for 12 months

Correctional Lieutenant

Ironwood - State Prison

Department of Corrections

ACTION: Petition for rehearing filed by appellant
granted

MICHAEL SCHWENGLER, CASE NO. 01-0779

Appeal from ten percent reduction in
salary for six months

Correctional Officer

Salinas Valley State Prison

Department of Corrections

ACTION: Petition for rehearing filed by appellant denied

PETER SMITH, CASE NO. 01-0577

Appeal from dismissal

Special Agent Trainee

Department of Justice

ACTION: Petition for rehearing filed by respondent
denied

8. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

Action: See pages 12-15.

8. WITHHOLD APPEALS

On January 23, 2002, the Board adopted the following
decisions presented by Walter Vaughn, Executive Officer,
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

ROBERT HASKINS, CASE NO. 01-2017

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

MAXIMO HERNANDEZ, CASE NO. 01-1327

Classification: Correctional Officer

Department of Corrections
ACTION: DENIED

KEITH JOHNSON, CASE NO. 01-1303
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

STEVEN JOHNSON, CASE NO. 01-1333
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

SANNOH KAMARA, CASE NO. 01-2867
Classification: Correctional Officer
Department of Corrections
ACTION: WITHDRAWN

OSCAR MUNOZ, CASE NO. 01-0933
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

EDWARD PIERCE, CASE NO. 01-1415
Classification: Correctional Officer
Department of Corrections
ACTION: SUBMITTED

ALFREDO ROBLES, CASE NO. 01-1332
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

CHRISTOPHER SCOTT, CASE NO. 01-1416
Classification: Correctional Officer
Department of Corrections
ACTION: DENIED

AKIEA SIMS, CASE NO. 01-1334
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: DENIED

LEONARD TERRY, CASE NO. 01-1316
Classification: Medical Technical
Assistant (CF)

Department of Corrections
ACTION: GRANTED

ADRIANA YANEZ, CASE NO. 01-0562
Classification: Youth Correctional Counselor
Department of the Youth Authority
FRANK ROSA, CASE NO. 01-0629
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: GRANTED

FRANK ROSA, CASE NO. 01-0629
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: WITHDRAWN

9. MEDICAL APPEALS

On January 23, 2002, the Board adopted the following
decisions presented by Walter Vaughn, Executive Officer,
California State Personnel Board.
VOTE: Alvarado, Elkins, Bos - Aye.

JONATHAN D. CARR, CASE NO. 00-4066
Classification: Cadet, CHP
State Personnel Board
ACTION: SUBMITTED

RICKEY CARRILLO, CASE NO. 01-3043
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

CHARLES D'AURIA, CASE NO. 01-4069
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

JOSEPH GABEL, CASE NO. 01-3273
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

DIANE HYDE, CASE NO. 01-3064
Classification: Correctional Officer
Department of Corrections
ACTION: GRANTED

DONNIE LENTZ, CASE NO. 01-3068
Classification: Correctional Officer
Department of Corrections
ACTION: DISMISSED

LASHAUNDA COOPER, CASE NO. 01-2198
Classification: Youth Correctional Officer
Department of the Youth Authority
ACTION: DISMISSED

10. MERIT ISSUE COMPLAINT

On January 23, 2002, the Board adopted the following
decision presented by Walter Vaughn, Executive Officer,
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

(Merit Issue Complaint)
JASON STERLING, CASE NO. 01-1456
Classification: Energy Analyst
California Energy Commission
ACTION: DISMISSED

11. REQUEST TO FILE CHARGES CASES

PETITIONS FOR REHEARING CASES

On January 23, 2002, the Board adopted the following
decisions presented by Walter Vaughn, Executive Officer,
California State Personnel Board.

VOTE: Alvarado, Elkins, Bos - Aye.

(Request to File Charges Case)
DONALD HANSEN, CASE NO. 00-2625
Classification: An employee with the Department of Parks
and Recreation
ACTION: DENIED

ELIZABETH STELLAR, CASE NO. 00-3986
Classification: An employee of with the Department of
Parks and Recreation
ACTION: DENIED

(Petition for Rehearing)
STEPHEN SMITH, CASE NO. 00-2268P
Classification: State Park Ranger Cadet
Department of Parks and Recreation
ACTION: DENIED

12. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following:

A. AIRCRAFT PILOT

The Department of Justice proposes a specification revision for Aircraft Pilot, Department of Justice to broaden the minimum qualifications.

ACTION: Noted

13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) DEPUTY DIRECTOR, EDUCATION

The California Science Center proposes to allocate the above position to the CEA category. The Deputy Director, Education, is responsible for overseeing the development of all educational programs and ensuring that all programs and educational services at the Science Center and the Center for Science Learning meet the highest standards of quality. The Deputy Director is also responsible for overseeing the Science Center's role in planning the Science Center School, developing and maintaining the school's curriculum and training teachers. The department indicates that the position is at the second organizational level and will report to the Executive Director.

(2) DEPUTY DIRECTOR, EXHIBITS

The California Science Center proposes to allocate the above position to the CEA category. The Deputy Director, Exhibits, is responsible

to oversee and direct the development and implementation of exhibits and the Phase II expansion of the Science Center. The department indicates that the position is at the second organizational level and will report to the Executive Director.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS

- (1) CHIEF, TRAFFIC CONGESTION RELIEF PROGRAM
The California Department of Transportation's request to allocate the above position to the CEA category has been approved effective December 21, 2001.
- (2) CHIEF OF FIELD OPERATIONS
The California State Lottery's request to allocate the above position to the CEA category has been disapproved January 3, 2002.
- (3) CHIEF, PLANNING AND PROJECT MANAGEMENT BRANCH
The Department of Health Services' request to allocate the above position to the CEA category has been disapproved January 3, 2002.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. STELLA OYEKA, CASE NO. 00-1045. Appeal from rejection during probation. Franchise Tax Board. (Written testimony presented November 6, 2001).

NO ACTION

2. MARK CHAMBERLAIN, CASE NO. 01-0740B. Appeal from backpay. Department of Mental Health. (Oral argument held November 6, 2001).

NO ACTION

3. SUSAN BERGER-TULLY, CASE NO. 01-0489P. Appeal from rejection during probation. (Oral argument held November 6, 2001).

NO ACTION

5. JUDITH BECK, CASE NO. 00-3025. Appeal from constructive medical termination. Department of California Highway Patrol. (Oral argument held November 7, 2001).

NO ACTION

5. ALAN DORAN, CASE NO. 00-3839. Appeal from five percent reduction in salary for six months. Department of Corrections. (Oral argument held January 8, 2002).

NO ACTION

7. SVETOZAR STUKOVSKY, CASE NO. 99-3583. Appeal from dismissal. Department of Corrections. (Oral argument held January 8, 2002).

NO ACTION

9. Proposed resolution to amend the California Code of Regulations Section 433, Voluntary Transfers Between Classes and adopt new California Code of Regulations Section 433.1, Voluntary Transfers Between Classes - Bargaining Unit (BU) 10 Employees. (Hearing Held January 8, 2002).

ACTION: Adopted on January 23, 2002.
VOTE: Alvarado, Elkins, Bos - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on January 23, 2002.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Elkins, Bos - Aye.